

State Board of Embalmers and Funeral Directors

December 11-12, 2012
Hampton Inn & Suites – Country Club Plaza
4600 Summit, Kansas City MO 64112

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors was called to order by D. Todd Mahn, Chairman on December 11, 2012 at 2:10 p.m.

Roll Call

Board Members Present

James Reinhard, Vice Chairman
John McCulloch, Secretary
Archie Camden
Gary Fraker

Board Members Not Present

Eric Pitman

Staff Present

Sandy Sebastian, Executive Director
Lori Hayes, Inspector
Tabatha Lenzini, Administrative Assistant
Sharon Euler, Division Legal Counsel

Approval of Agenda

A motion was made by Gary Fraker and seconded by John McCulloch to approve the open agenda. Motion carried with James Reinhard and Archie Camden voting in favor with no votes in opposition. Eric Pitman not present for the meeting.

Move to Closed

A motion was made by Gary Fraker and seconded by John McCulloch to move to closed for #1, 2, 7, 8, and 9 of the attached motions to close. Motion carried with James Reinhard and Archie Camden voting in favor with no votes in opposition. Eric Pitman was not present for the meeting.

Approval of Open Minutes

A motion was made by Gary Fraker and seconded by Archie Camden to accept the open September 25, 2012 board meeting minutes with the correction to the motion relating to the "Discussion of Propose Rule "Insurance Funded Preneed Contracts" by correcting it to read *Motion was made by James Reinhard and seconded by Archie Camden to table the vote on the rule to allow for written comments to be received in the board office. Motion tied with Eric Pitman voting in favor and John McCulloch, Gary Fraker and D. Todd Mahn voting in opposition. Motion carried with James Reinhard and John McCulloch voting in favor with no votes in opposition. Eric Pitman not present for the meeting.*

Executive Director Report

Sandy gave an update on the following –

- Embalmer/Funeral Director renewals reporting that 2092 renewals were mailed in August and as of November 30, 2012 there were 1955 (93.45%) renewed which is 30 days past the expiration date.
- Discussed fees relating to the \$36 per contract fee and shared with the board that rough estimates for 2012 seller renewals indicates there were 14, 811 contracts reported sold, which in line with recent years since the law changed in 2009 (in 2009 there were 12504, 2010 there were 15391 and in 2011 there were 14708). Given that contract numbers reported appear to be consistent Sandy asked if the board wanted to look at options that involve reducing the per contract fee, which would likely involve increasing fees in other areas. The board asked that scenarios be run.
- Sandy updated the board on staffing in the office reporting that Bob Beck would be finishing up his assignments by the end of December and that Betty Lilley was hired full time to replace him.
- Sandy shared with the board that license statistics (new, closed/ceased, disciplined) were included in their materials.
- Sandy told the board that the new law book going out on CD versus hard copy saved a significant amount of money because the CDs were only .97 to complete/mail.

Legal Counsel Report

Sharon informed the board that the litigation regarding National Prearranged Services is continuing as the trial appears to be moving forward.

Presentation by Scott Lindley

Scott Lindley met with the board at his request to discuss a proposal that he had discussed with an interim legislative committee on preneed. Representative Guernsey, Mr. Lindley's representative, was to be present with him to give the presentation to the board but due to illness was not present. Mr. Lindley gave a brief overview of what his representative was going to be talking about relating to tax credits, continued thoughts relating to National Prearranged Services.

Board member notification of new, closed/ceased, disciplined licenses

John McCulloch and Todd Mahn asked that in addition to the notifications relating to each category that they receive at each board meeting that they be notified each time an application or cease is received for an establishment, provider and seller before the office processes anything. Following discussion it was suggested that the information be posted to the secure portal and the board be sent an email that information has been added for their reference.

Licensure categories

Todd Mahn indicated he wanted to revisit the matter of dual licensure and following discussion among the board the public was asked for input. The members of the public present had different opinions, similar to the board. No motion was made.

Discussion of renewal deadlines/preneed seller renewal

John McCulloch discussed the renewal deadlines and any possible grace periods. Sandy and Sharon both clarified that the statute does not provide for a grace period but that all licenses must be renewed by the deadline and that was applicable to all license types. This subject resulted in a combined conversation with the next item on the agenda below.

Discussion of preneed seller renewal/seller annual report forms

Todd Mahn and John McCulloch discussed the current preneed seller form and stated it was unclear to anyone that if the license was not renewed by October 31st that they could not work even if their form was submitted to the board prior to that time. D. Todd Mahn agreed and proposed the date on the renewal form have a suggested date of October 31. Sandy shared that an earlier suggested submission date of October 1st could be put on the form and that the language could be modified to be

more clearer. The public expressed concerns about the background questions requesting information that the board could do nothing with and asked if the board could review those questions. The board asked that Sandy review them. Todd Mahn asked John McCulloch to work with the office on potential language.

Discussion of \$36 per contract fee relating to insurance funded preneed contracts

John McCulloch asked that this item be revisited from a previous meeting. Following discussion a motion was made by Gary Fraker and seconded by John McCulloch to have staff draft a rule that addresses beneficiary changes on insurance policies and any policies sold at the funeral home or by its agents with a preneed contract is subject to the \$36 reporting fee. Motion carried with James Reinhard and Archie Camden voting in favor with no votes in opposition. Eric Pitman was not present for the meeting.

The Conference

Sandy asked the board if they would like to determine which member would be able to attend the upcoming annual meeting of The Conference, being held in Henderson, Nevada in February, 2013. Todd Mahn stated he would like to go. Gary Fraker recommended James Reinhard attend. A motion was made by Gary Fraker and seconded by Archie Camden for James Reinhard to attend the meeting. Motion carried with James Reinhard and John McCulloch voting in favor with no votes in opposition. Eric Pitman not present for the meeting.

Motion to Close

A motion was made by Gary Fraker and seconded by James Reinhard to move to closed for #1, 2, 7, and 9 of the attached motions to close. Motion carried with Archie Camden and John McCulloch voting in favor with no votes in opposition. Eric Pitman was not present for the meeting.

Future Meeting Dates/Locations

Future meeting dates and locations were discussed and the board asked that staff look at meeting locations in downtown St. Louis for March 19, 20, 21, 2013.

Adjournment

Meeting adjourned at 12:12pm on December 12, 2012.

Executive Director: Sandy Sebastian

Approved by board on: Sept 24, 25, 2013

(These meeting minutes were originally approved at the June 25-26, 2013 meeting; however corrections were made as noted in gray and they were finally approved at this meeting.)

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

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